



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

MAR 11 2005

James C. Morriss III  
Thompson & Knight LLP  
1900 San Jacinto Center  
98 San Jacinto Boulevard  
Austin, Texas 78701-4081

RE: Gulfco Marine Maintenance Superfund Site in Freeport Texas

Dear Mr. Morriss:

Thank you for your letter of March 4, 2005, concerning the Gulfco Marine Maintenance Superfund Site (Gulfco Site). The Environmental Protection Agency (EPA) appreciates your efforts to work towards our mutual goal of quickly cleaning up the Gulfco Site in order to delete the site from the National Priorities List (NPL).

As you know, EPA, as well as your group consisting of Dow, Sequa, and LDL Coastal (hereinafter referred to as "Potentially Responsible Parties [PRP] Group"), has been exploring ways in which to meet the goal of quick cleanup of the Gulfco Site in order to delete it from the NPL. EPA initially proposed that the Gulfco Site be investigated in a Remedial Investigation and Feasibility Study (RI/FS) and be cleaned up under a Remedial Action. As a PRP Group that takes your obligations seriously, you committed to do the RI/FS in an Administrative Order on Consent (AOC). EPA and the PRP Group worked diligently for seven months to reach an AOC to conduct the RI/FS portion of the cleanup.

As the negotiations were wrapping up, the PRP Group, in a February 23, 2005, letter proposed exploring a two-year cleanup of the Gulfco Site under the Texas Voluntary Cleanup Program (Texas VCP) in order to meet our mutual goal of quick cleanup. EPA fully supports the Texas VCP and believes that this program is an excellent approach under appropriate circumstances. EPA's Memorandum of Understanding (MOU) with the Texas Commission on Environmental Quality on the Texas VCP was negotiated under the premise of not using the Texas VCP for NPL Sites. An assessment of the appropriate nature of the VCP for use at NPL Sites has not been completed. This assessment is currently being considered as a result of Governor Perry's request. However, it will take a considerable amount of time to carefully evaluate and the possibility of adopting a new policy regarding NPL Sites and the Texas VCP.

Assessing the appropriate nature of the Texas VCP for use at NPL sites is a lengthy process. This, combined with your proposal's lack of detail about how a cleanup under the VCP would provide information sufficient to delete the Gulfco Site from the NPL, caused EPA to notify you in a February 28, 2005 letter via e-mail that EPA was willing to explore cleanup under appropriate State laws, but through an AOC with EPA so that the requirements for deletion from the NPL are met. In order to begin exploring this idea, EPA invited you to commit to an AOC process which would outline the investigation and cleanup of the Gulfco Site in a manner which will allow EPA to delete the Gulfco Site from the NPL.

The EPA was disappointed to learn in your March 4, 2005, letter, that you are declining to explore the AOC option to do cleanup of the Gulfco Site under federal and appropriate state law. An AOC between EPA and the PRPs assures that adequate information is collected to facilitate deletion as well as that appropriate response actions are completed. EPA is flexible as to the content of an order and scope of work assuming the cleanup is completed under federal and appropriate State law.

The EPA met with the PRP Group on March 7, 2005 in the Regional Office to discuss resolution of the impasse on the mechanism to most quickly clean up the Gulfco Site. At the meeting, the Regional Administrator reiterated some of the timing problems regarding the Texas VCP approach. EPA was pleased that the PRP Group understood the inability of meeting our mutual goal of timely cleanup under the Texas VCP process and agreed orally to exploring the AOC option with EPA in order to clean up the Gulfco Site. EPA requested that the PRP Group provide an outline of an investigation and cleanup that would take into account EPA's oversight role, public participation, assurance that all appropriate response actions are completed, and that is consistent with other NPL actions. EPA would like to see this issue resolved as soon as possible. Additional discussions to resolve this matter should be completed on an expedited basis.

In order to meet our mutual goal of quickly cleaning up the Gulfco Site in order to delete the site from NPL, the PRP Group can still sign the RI/FS AOC allowing for completion of the investigation in less than six months and the entire cleanup in eighteen months. This is quicker than amending the VCP program or drafting a new AOC for cleanup that incorporate appropriate State law. That being said, EPA is open to looking at alternative methods that will clean up the Gulfco Site faster than the options that EPA and the PRP Group have explored.

The EPA is looking to resolve cleanup of the Gulfco Site quickly. EPA eagerly awaits your alternative proposal in order to quickly wrap up discussions and begin cleaning up the Gulfco Site. Given the amount of time EPA has discussed with you the cleanup of the Gulfco Site, EPA believes it is reasonable to expect your proposal in the next couple of weeks so that we can discuss this matter in early April. Should you have any questions, don't hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Samuel Coleman". The signature is fluid and cursive, with the first name "Samuel" and last name "Coleman" clearly distinguishable.

Samuel Coleman, P.E.

Director

Superfund Division

cc: Bill Mailey  
Alan Daniels